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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,303	10/04/2006	Mario Leclerc	BRKP:012US/10602032	3382
33425 7590 03/01/2010 FULBRIGHT & JAWORSKI L.L.P. 600 CONGRESS AVE. SUITE 2400 AUSTIN, TX 78701				
EXAMINER YOUNG, SHAWQUITA				
ART UNIT		PAPER NUMBER		
1626				
MAIL DATE		DELIVERY MODE		
03/01/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,303

Applicant(s)

LECLERC ET AL.

Examiner

SHAWQUIA YOUNG

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 75-85 and 98-105 is/are pending in the application.
- 4a) Of the above claim(s) 98-102 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 75-78,80,81,83,84 and 103-105 is/are rejected.
- 7) ☒ Claim(s) 79, 82 and 85 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 75-85 and 98-105 are currently pending in the instant application. Claims 75-78, 80, 81, 83, 84 and 103-105 are rejected, claims 79, 82 and 85 are objected and claims 98-102 are withdrawn from consideration.

I. *Remarks*

As stated in the Decision from Pre-Appeal Brief Review sent out on December 16, 2009 and as discussed with the attorney Michael Krawzsenek on November 16, 2009, the Examiner will reopen prosecution and the pending 102 rejection has been withdrawn. The pending new matter rejection has been amended to exclude claims 79, 82 and 85 and the pending 112, second paragraph rejection of claims 75-78, 80, 81, 83, 84 and 103-105 has been maintained.

Applicants are suggested to renumber the new claims 103-105 which were added in the amendment filed on December 19, 2008 so that they are numbered claims 140-142, respectively.

II. *Rejection(s)*

Claim Rejections - 35 USC § 112, 1st paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 75-78, 80, 81, 83, 84 and 103-105 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants have added the following limitation "wherein the polymer is a homopolymer comprising repeating monomers consisting of the following structure....." in claim 75 but this limitation is not disclosed in the original specification and is considered new matter because the amendment introduces subject matter that is not supported by the original disclosure. The original specification does not disclose homopolymers which comprise repeating monomers selected from the structures in claim 75. Applicants are suggested to delete the added above limitation which is considered new matter.

Claim Rejections - 35 USC § 112, 2nd paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 75-78, 80, 81, 83, 84 and 103-105 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 75-78, 80, 81, 83, 84 and 103-105 are drawn to "a polymer" comprising the reaction product of a compound selected from the group in claim 75. However, the specification fails to disclose all of the various types of monomer units that could be present in the polymer

and one of ordinary skill in the art does not know the metes and bounds of the claims. Therefore, the claims are indefinite.

III. Objection

Dependent Claim Objections

Dependent Claims 79, 82 and 85 are objected to as being dependent upon a rejected based claim. To overcome this objection, Applicant should rewrite said claims in an independent form and include the limitations of the base claim and any intervening claim.

IV. Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawquia Young whose telephone number is 571-272-9043. The examiner can normally be reached on 7:00 AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Shawquia Young/

Examiner, Art Unit 1626